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Job Protection and Civil Rights Enforcement Act of 2013 House Bill 13-1136

Kathleen Hallgren, Public Policy Fellow, Bell Policy Center
Testimony to the Senate Judiciary Committee
April 22, 2013

Thank you for the opportunity to address this committee.

My name is Kathleen Hallgren, and I am a Public Policy Fellow with the Bell Policy Center. The Bell is a non-partisan, non-profit research and advocacy organization founded on progressive values and dedicated to expanding opportunity for all Coloradans.

The Bell Policy Center supports HB13-1136, the “Job Protection and Civil Rights Enforcement Act.” We see this legislation as a net opportunity gain for Colorado, as it would protect workers from unfair discriminatory practices and allow more victims of workplace discrimination and harassment to seek recourse. Furthermore, this bill will greatly enhance the state’s ability to ensure the protection and the preservation of jobs.

National comparison of workplace anti-discrimination legislation¹

To extend meaningful remedies to victims of workplace discrimination through state law is not a rash or drastic change. In fact, enacting these changes will align Colorado with the majority of other states, including nearly all of Colorado’s regional neighbors, as well as with federal law in regards to remedies. Forty-two other states and the District of Columbia provide at least one meaningful remedy for successful employment discrimination lawsuits. Thirty-eight states offer attorney fees and thirty-five states offer compensatory and/or punitive damages. In denying these remedies, Colorado is in the company of only seven other states – Alabama, Arkansas, Georgia, Mississippi, Nevada, South Carolina and Wyoming.

As legislative trends across the nation show, this is a reasonable and just approach to employment discrimination. What we’re doing *now* is out of the ordinary. To enact these changes would be to bring Colorado in line with the majority of the country in protecting workers.

National comparison of workplace anti-discrimination filings²

It is important to keep in mind that because no state offers a directly parallel experience, it is difficult to say with absolute certainty whether this bill would cause an increase or decrease in case filings. However, we researched the filing rates in a handful of states that have made legislative changes in the past decade – incorporating a new protected class, or adding remedies – and found that these changes have not resulted in significant increases in filings.

- In 2007, Maryland modified its anti-discrimination law to offer compensatory and punitive damages as well as attorney fees. The state saw no considerable jump in

complaints filed between fiscal years 2006 and 2009, the years on either side of the change. In fact, filing rates have been on the decline since fiscal year 2009.³

- Between 2005 and 2007, Oregon, Maine, Iowa and Illinois added sexual orientation and gender identity as protected classes. None of these states experienced noteworthy jumps in filings, and many have actually seen filing rates drop in recent years.⁴

Good for workers, good for business

Enabling discriminatory practices in the workplace extends beyond an issue of human rights. A negative workplace is, simply put, bad for business. Studies have shown that employees who believe their organization would take appropriate action if discrimination occurred experience high job satisfaction and positive work environments, which are linked to increased productivity and increased employee retention.⁵ Additionally, recent research suggests that it costs an employer about one-fifth of a worker's salary to replace that worker.⁶

We simply cannot continue to ignore the gaps that currently exist in Colorado's legislation - these gaps endanger workers' rights, and threaten the vitality of our workplaces and our economy. This bill provides one standard for protection across all workplaces, holding bad actors accountable and preventing employers who are doing the right thing from being at a competitive disadvantage to those who are not.

By supporting and educating employers to take measures to avoid discrimination in their work sites, and by empowering and protecting all workers, this bill represents a net opportunity gain for the people, the communities and the economy of Colorado.

We urge you to support House Bill 1136; we thank Senators Guzman and Carroll for bringing it to you today, and we thank you for the opportunity to share this information. If you have any questions, or if I can provide further information, please call me at 303.297.0456 x216 or email me at Hallgren@bellpolicy.org.

¹ *State Comparison – Employment Discrimination Filing and Legislation*, Bell Policy Center, Jan. 2013.

² *Ibid.*

³ [Annual Reports 2006-2011](#), Maryland Commission on Civil Rights.

⁴ Data inquiry with Oregon Bureau of Labor and Industries, Dec. 2012; [Annual Report 2011](#), Maine Human Rights Commission; [Annual Reports 2007-2011](#), Iowa Civil Rights Commission; [Annual Reports 2005-2011](#), Illinois Department of Human Rights.

⁵ David C. Wilson, *When Equal Opportunity Knocks*, Gallup Management Journal, 2006.

⁶ Center for American Progress. *There Are Significant Business Costs to Replacing Employees*. Nov. 2012. <http://www.americanprogress.org/issues/labor/report/2012/11/16/44464/there-are-significant-business-costs-to-replacing-employees/>